

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0502**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On October 8, 2014 the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant but not for misconduct (decision # 74626). The employer filed a timely request for hearing. On March 6, 2015, the Department issued an amended administrative decision that corrected certain information in decision # 74626, but did not change the substance of the decision. On April 2, 2015, ALJ Triana conducted a hearing, and on April 10, 2015 issued Hearing Decision 15-UI-36707, reversing the Department's decision and concluding that claimant voluntarily left work without good cause. On April 30, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a lengthy written argument in which she made many contentions, first that the ALJ "interrupted and cut off" her attempts to present relevant evidence during the hearing. Claimant's Written Argument at 1, 4. On two occasions during claimant's testimony, when claimant detailed events occurring in 2013 and early 2014, the ALJ re-directed her testimony to events during the time period surrounding the work separation in September 2014. Transcript at 29, 34. From a review of the record, the events that claimant cited from 2013 and early 2014 were not relevant to the September 2014 work separation and did not shed light on the parties' intentions underlying the communications that led to the work separation. The ALJ did not abuse her discretion in limiting claimant's testimony about those events. To the extent claimant's contention may be construed as an argument that the hearing proceedings were unfair or the ALJ was biased, EAB has reviewed the hearing record in its entirety. The record shows that the ALJ inquired fully into the matters at issue and gave all parties reasonable opportunity for a fair hearing as required by ORS 657.270(3) and OAR 471-040-0025(1) (August 1, 2004). The record did not suggest, let alone show, that the ALJ conducted the proceedings in a manner that was unfair to claimant.

Claimant's written argument also presented information that was not offered into evidence at the hearing. Claimant's Written Argument at 2, 3, 4, 6, 7. However, claimant did not show the relevance of this information or explain why she was unable to present it at the hearing. Claimant did not show that factors or circumstances beyond her reasonable control prevented her from offering the new information during the hearing as required by OAR 471-041-0090 (October 29, 2006). For this reason, EAB considered only information received into evidence at the hearing, and those aspects of claimant's written argument that relied on such evidence, when reaching this decision.

In general, claimant's written argument contended that the ALJ's decision was incorrect because the ALJ did not properly understand the employer's state of mind and motives in sending to claimant the communications that it did in the time period surrounding the work separation. Claimant's Written Argument at 2, 3, 4, 5, 6. Although claimant characterized the employer's state of mind in very unflattering terms, there is little evidence in the record to support those characterizations. Having sorted through the lengthy transcript, and the numerous documents comprising this record, EAB agrees with the ALJ's findings and conclusions as those supported by the reliable evidence in this record.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 15-UI-36707 is affirmed.

Susan Rossiter and J. S. Cromwell;  
D. P. Hettle, *pro tempore*, not participating.

**DATE of Service:** June 22, 2015

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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